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June 28, 2006

**VIA E-FILE AND HAND DELIVERY**

The Honorable Joseph J. Farnan, Jr.  
844 North King Street  
Lock Box 27  
Wilmington, DE 19801

RE: *Dobrich, et al., v. Indian River School District, et al.*,  
D. Del. 05 - 120

Dear Judge Farnan:

I write under Rule 60(a) of the Federal Rules of Civil Procedure to draw the Court's attention to what I believe may be a clerical error contained in the Court's June 22, 2006 order (the "Order") (D.I. 140) granting Plaintiffs' Motion for Leave to File First Amended Complaint (the "Motion"). In the Order, the Court granted the Motion without qualification and ordered that the Amended Complaint was "deemed filed." However, in the Motion Plaintiffs sought to have the Amended Complaint deemed filed as of the date it was filed with the Court: June 2, 2006. (D.I. 133 at 10) As Plaintiffs stated in the Motion, the Amended Complaint should be deemed filed as of June 2, 2006, so that Samantha Dobrich's claims could not possibly be time-barred. *Id.* Plaintiffs' proposed order accompanying the Motion also stated that: "The Amended Complaint should be deemed filed as of June 2, 2006." (D.I. 133) On June 21, 2006, Defendants stated that they did not oppose the Motion. (D.I. 138)

Under Local Rule 15.1, an amended complaint "shall be deemed filed as of the date of an order allowing the amendment, unless the order otherwise provides." Del. L. R. 15.1. However, the Order fails to include Plaintiffs' proposed language, which means that the Amended Complaint is deemed filed as of the date of the Order, or June 22, 2006. *Id.* As indicated in the Motion, deeming the Amended

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Complaint filed as of June 22, 2006 raises at least the possibility of an argument that Samantha Dobrich's claims would be time-barred. (D.I. 133 at 10)

Because the Court granted the Motion without qualification and Defendants did not oppose the Motion, Plaintiffs respectfully move the Court under Rule 60(a) to correct the clerical error, and that the Court replace the Order with the order attached to this letter. Plaintiffs have conferred with Defendants, and Defendants take no position on Plaintiffs' proposed modification to the Order.

Respectfully,

A handwritten signature in black ink, appearing to read "Thomas J. Allingham II", is written over the typed name and the first two lines of the address.

Thomas J. Allingham II (I.D. No. 476)

Robert S. Saunders (I.D. No. 3027)

Richard S. Horvath, Jr. (I.D. No. 4558)

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Attachments

cc: Warren Thomas Pratt, Esquire (by e-file)  
Stephen J. Neuberger, Esquire (by e-file)  
Thomas S. Neuberger, Esquire (by e-file)